



- Advanced failed to exhaust the administrative remedies under the Plan;
- Advanced's failure to exhaust the administrative remedies under the Plan is not excused for any reason;
- Cigna's decision, as the claims administrator under the Plan, to deny the claims for benefits submitted by Advanced is based upon a legally correct interpretation of the plan, is not an abuse of discretion, and is supported by substantial evidence;
- Advanced cannot seek or recover penalties under ERISA or the other alleged elements of damages Advanced seeks in this case.

In accordance with Local Rule 56.3(b), the elements of the specific claims and defenses on which Defendants seek summary judgment are set forth in detail in the Brief in Support of Defendants' Motion for Summary Judgment, which is filed contemporaneously with this Motion and is incorporated herein by reference.

## **II. SUMMARY JUDGMENT EVIDENCE**

Defendants' Motion for Summary Judgment is supported by the evidence included in the Appendix in Support of Defendants' Motion for Summary Judgment, which is filed contemporaneously with this Motion and is incorporated herein by reference.

## **III. PRAYER FOR RELIEF**

For the reasons set forth herein and in the Brief in Support, Defendants respectfully request that the Court award Defendants summary judgment as to all of Advanced's claims and award Defendants such other and further relief to which they may be justly entitled, including their attorneys' fees under 29 U.S.C. § 1132(g)(1).

Respectfully submitted,

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s/ Eliot T. Burriss

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2020, a true and correct copy of the foregoing document was served by electronic transmission through the Court's Case Management Electronic Case Filing system.

*s/ Eliot T. Burriss*

Eliot T. Burriss